

SUPPLEMENTAL REQUEST FOR
RECONSIDERATION
Appln. No.: 10/633,670

Attorney Docket No.: Q76738

recitations as described in MPEP 706.02(l). In order to expedite the prosecution for this application, Applicant submits the following Supplemental Request for Reconsideration.

In addition, contrary to the Interview Summary mailed October 4, 2005, the Examiner is awaiting Applicant's Supplemental Request for Reconsideration before issuing the next Office Action.

It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

REMARKS

Claims 2 and 3 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Morita et al. (U.S. Patent No. 6,236,539).

Applicants respectfully submit that Morita et al. is not available as a reference and request that the Examiner reconsider and withdraw the rejection based on Morita.

Morita et al. is only available as a reference as of its filing date under 35 U.S.C. §102(e).¹
Under 35 U.S.C. §103(c):

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under [§103] where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

¹ Applicants filed a Request for Reconsideration and Submission of Executed Declaration Under 37 C.F.R. § 1.131 filed on September 23, 2005, consequently removing the priority documents of Morita as prior art.

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Since the present invention and Morita et al. were commonly owned at the time of the making of the present invention, Morita et al. is not available as prior art under §103(c). Due to the filing date of the instant application, August 5, 2003, the instant application is an application to which the newly amended 35 U.S.C. §103(c) applies.

As to the methods for fulfilling the evidence requirements relating to ownership, see the discussion by the USPTO on its website at
“<http://www.uspto.gov/web/offices/dcom/olia/aipa/infoexch.htm>”.

Fuji Photo Film Co., Ltd. is the assignee of Morita et al. (U.S. Patent 6,236,539) and is also the assignee of the above-captioned U.S. Application No. 10/633,670. The undersigned hereby represents that Morita et al and the claimed invention were, at the time the invention of the instant application was made, owned or subject to an obligation of assignment to Fuji Photo Film Co., Ltd.

In view of the above, it is respectfully submitted that Morita et al is not available as art under 35 U.S.C. §103 and it is requested that the rejection under 35 U.S.C. §103(a) be reconsidered and withdrawn.

As a result, Applicant respectfully requests the Examiner to withdraw the rejection of claims 2 and 3 in view of Morita.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

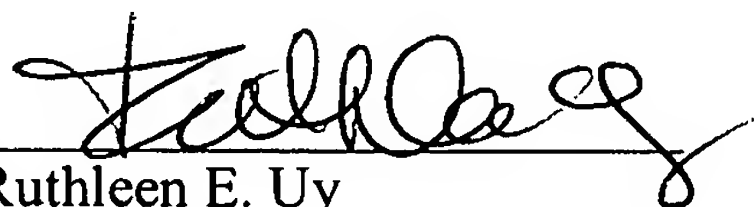
Respectfully submitted,

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